

Reapportionment 2020 Quick Reference Guide

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This Quick Reference Guide provides an outline to assist you in implementing Dutchess County's Independent Reapportionment Commission for the purposes of drawing legislative districts following every decennial census. New York General Municipal Law Section 10(1)(ii)(a)(13) provides New York legal standards for adopting a local law implementing reapportionment. Dutchess County passed such a Local Law. Dutchess County Resolution Number 2019248 establishing a Local Law (subject to approval by referendum on November 3, 2020) Amending Article II (LEGISLATIVE BRANCH) sets forth the process for reapportionment for the County of Dutchess.

DRACONIAN REMEDIES

PLEASE TAKE NOTICE THAT FAILURE TO ADHERE TO DEADLINES RESULTS IN AUTOMATIC DISBANDING OF COMMISSION AS CONSTITUTED AT THE TIME OF THE FAILURE

DUTCHESS COUNTY REAPPORTIONMENT PROCESS OUTLINE

in anticipation of 2020 federal census

Reapportionment and Redistricting of County electoral legislative districts occurs every ten years and is due to occur again based on the 2020 federal census.

Reapportionment is "a realignment or change in legislative districts brought about by changes in population and mandated by the constitutional requirement of equality of representation." (Black's Law Dictionary)

Technically, reapportionment is the process of allocating seats in the legislature based on population and redistricting is the process of redrawing legislative district lines. (NYU Brennan Center for Justice Citizen's Guide to redistricting)

REAPPORTIONMENT PROCESS:

DUTCHESS COUNTY'S COMMISSION IS VESTED WITH TOTAL AUTHORITY

The Dutchess County Commission's adopted plan shall be used beginning in the election of each year of the decade ending in "3." The Commission must file its plan with the Dutchess County Board of Elections no later than **six months** after its first meeting or the publication of the census whichever is later.

The Dutchess County Commission consists of seven members who are County residents, registered to vote in Dutchess County, represent the geographic and demographic diversity of the County, and who are not currently, nor have been for three years preceding the formation of the Commission elected officials, employees of New York State, Dutchess County, or any town, city, or village in that County, or members or officers of any political committee. These seven members are chosen from a pool of candidates. The Majority Leader and Minority Leader of the County Legislature each appoint two members. The remaining three members are chosen by the initial four members. The Commission shall decide at its first meeting by a majority vote of the entire membership of the Commission if it will have a Chair and Vice-Chair chosen by a majority vote of the whole Commission or a Chair by rotation among members in alphabetical order by surname.

Forming the Commission:

To establish a pool of candidates, the County Executive is required no later than October 1 of each year ending in zero "0" [i.e., **by October 1, 2020**] commence the process for widely soliciting members via various methods (direct mail, email, contact with civic groups, public service announcements, paid advertising, and announcements on the County website). The County Executive is required to file a report of the process and a list containing the names of the candidates to the Clerk of the County Legislature on **January 2 [2021]** of each year ending in "1."

Initial appointments to the Commission from the pool of candidates must be made no later than **February 1 [2021]** of each year ending in "1" with two members appointed by the Legislature's majority leader and two members appointed by the Legislature's minority leader. The four members shall then select the additional three members no later than **February 15**.

The February 15 deadline must be met, or all appointments are void and all previously appointed members will no longer be eligible to serve on the Commission.

The process begins again with a March 1 deadline for the original four members and a March 15 deadline for the additional three members. The March 15 deadline must be met, or all appointments are void and all previously appointed members will no longer be eligible to serve on the Commission.

The process begins again with an April 1 deadline for the original four members and an April 15 deadline for the additional three members.

If these four members fail to select the three additional members by April 15, then by May 1 the additional three members shall be selected by a drawing from a receptacle by the County Clerk from the remaining pool of candidates.

Conduct of the Commission:

Commission meetings shall be subject to the Open Meetings Law. Minutes shall be posted on the County website **within five (5) business days**.

The Dutchess County Commission has no power or authority to increase or decrease the number of legislative districts.

The Commission is required to hold two or more geographically diverse **public hearings** no later than **five months** after its first meeting or publication of the census whichever is later, and make its draft plan available to the public for inspection and comment not less than **ten (10) days** before such public hearing. A method for public comment to be submitted through the County website shall be available at the time of the Commission's first meeting and a method to comment on draft plans available **ten (10) days** prior to the first public hearing. **Failure to do this results in the automatic disbanding of the Commission.**

The Commission must prepare and adopt, by **majority plus one** vote (i.e., 5 of 7 votes in favor), a final plan for reapportionment and file its plan with the Dutchess County Board of Elections no later than six months after its first meeting or the publication of the census whichever is later. **Failure to do this results in the automatic disbanding of the Commission.** No further legislative action or referendum is required on the Commission's plan.

The County Legislature must appropriate such funds as it deems are necessary for the Commission to effectively conduct its business. The expenditure of such funds is under the sole control and discretion of the Commission subject to the provisions set forth in the Dutchess County Charter and applicable federal, state, and local laws.

Developing the Reapportionment Plan:

Local law mandates and constitutional considerations

“**Contiguity**” is a redistricting principle considered traditional by the US Supreme Court. Miller v. Johnson, 515 US 900 (1995). A contiguous district is a district where all parts of the district are connected to each other. Districts shall be contiguous meaning that the boundaries of a district are a single, uninterrupted shape; a person should be able to travel across a district by public roadway without crossing into another district.

The Constitutional principle of “**one person, one vote**” mandates that each district’s population be roughly equal. Reynolds v. Sims, 377 U.S. 533 (1964); Baker v. Carr, 369 US 186 (1962). Each district shall have a resident population between (95) ninety-five and (105) one hundred and five percent of a full ratio for each legislator except a town or city that has between (95) ninety-five and (110) one hundred and ten percent of a full ratio for each legislator shall not be divided into more than one district.

“**Gerrymandering.**” No consideration shall be given to providing advantage to one or another political party.

The following standards shall have priority in the order herein set forth, to the extent applicable:

Districts shall be convenient and minimize the division of communities of interest to the extent practicable. A **community of interest** is defined as an area with recognized similarities of interest, including but not limited to economic, social, cultural, institutional, geographic, or historic identity. The term communities of interest shall not include common relationships with political parties, officeholders, or political candidates.

“**Compactness.**” Necessary well-established measurements of compactness comparing existing and proposed districts shall be included with the draft plan. “Compactness” is a

traditional redistricting principle. A district should be rectangular or circular, rather than asymmetrical with wildly contorted boundaries and tendrils covering a widely dispersed population.

Respecting existing “**political and geographic boundaries**” is another traditional redistricting principle. When practical, existing town, city, or village boundaries should be kept intact.

Race and Ethnicity. Accounting for race and ethnicity involves a delicate legal balance. There must be a particularly compelling reason before race or ethnicity of citizens may be the predominant reason for drawing district lines. Bush v. Vera, 517 US 952 (1996). One such compelling reason would be compliance with the federal Voting Rights Act of 1965 which was passed to combat discrimination. Some parts of the Voting Rights Act expire if not renewed periodically. Section 2, however, is permanent. Section 2 prohibits any voting practice that results in the denial or abridgement of anyone’s right to vote based on race, color, or minority language status, specifically practices that deny minority voters an equal opportunity to participate in the political process and to elect representatives of their choice. For example: Areas where there are concentrations of minorities may not be dissected in a manner to dilute the minority vote to promote the election of non-minority candidates only, or packing together all minority communities into as few districts as possible thereby limiting the number of electoral offices minority candidates can win. **Evidence of compliance with the United States Voting Rights Act Section 2 shall be included with the Commission’s draft plan. Failure to do this results in the automatic disbanding of the Commission.**